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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,099	07/05/2005	Mirco Rossetti	P-US-PR-1080	1117
7590		11/12/2008	EXAMINER LEE, LAURA MICHELLE	
Adan Ayala Black & Decker Corporation 701 East Joppa Road TW 199 Towson, MD 21286			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 11/12/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/517,099	ROSSETTI ET AL.	
	Examiner	Art Unit	
	LAURA M. LEE	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10/14/2008.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6,8,9,11 and 17 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-6, 8-9,11,17 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/14/2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-6, 8-9,11,17 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 8-9,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myhre (U.S. Patent 4,464,962) in view of Nichols (U.S. Patent 752406) and Lewis

(U.S. Patent 6938528). Myhre discloses a miter guide device but does not disclose that it is used with a miter saw, *per se*, but rather with a table saw. However, since the table saw is being used with a miter guide device that allows the table saw to perform a miter cut, it is in effect also a “miter saw.” However, although Myhre discloses that the saw assembly is pivotally connected, in as much as it is rotatably connected to the base, Myhre does not disclose that the saw assembly is downwardly movable towards the base for cutting a workpiece on the base and that it remains stationary relative to the cutting plane during a cutting operation of a workpiece placed on the base. However, attention is directed to the Nichols and Lewis miter saws that discloses a similar fence arrangement (12) in combination with a miter saw. Nichols discloses a two part fence system similar to Myhre that is used to clamp the workpiece against another miter fence, but does not disclose that the blade is pivoted downwardly. Lewis on the other hand discloses a pivotable miter saw, but shows only one side of the sliding clamping fence system as disclosed by Nichols. However, the combination of Nichols and Lewis discloses to one having ordinary skill in the art the idea of utilizing a miter guide such as taught by Myhre on a miter saw system such as shown by Nichols and Lewis in a more versatile manner, such as being utilized as a two part fence clamping system.

Therefore, the modified device of Myhre, discloses a miter saw comprising: a base (work surface, 10) comprising a working surface having a first and second guide track (track slots 15/16); a saw assembly (miter saw;) pivotally connected to the base, the saw assembly comprising a blade (miter saw blade), the blade being movable (slidable / rotatable) in a first cutting plane the cutting plane intersecting the working

surface along a first cutting line (along the blade's radial axis), the saw assembly being movable downwardly (i.e. bevel position) towards the base for cutting a workpiece placed on the base (10); and an adjustable elongated fence (20,21) mounted on and supported by the working surface (10), the fence being angularly displaceable relative to the first cutting line (via screw 37), and longitudinally adjustable (via screw 31) along the cutting line so that the fence is disposable in a first position defining a first plane supporting a workpiece and a second position defining a second plane supporting the workpiece, the first and second planes being parallel, the fence capable of remaining stationary during a cutting operation of a workpiece placed on the base. The assembly is capable of being moved in a multitude of parallel positions by rotating the workpiece guide surfaces, 33 and 33A by screws 37 until the guide surfaces are parallel to each other and then moving them longitudinally along the work surface by adjusting screws, 31.

Myhre further discloses that the fence comprises: a first portion (32) disposed on one side of the cutting line and substantially perpendicular to the working surface, a first track follower member (screw, 31) connected to the first portion (20) and in cooperative sliding engagement with the first guide track (15), the fence (20/21) being pivotally mounted about the track follower member (31) (the fence is capable of pivoting about screw 31), a second portion (32A) disposed on the other side of the cutting line, the second portion (32A) capable of being substantially coplanar with the first portion and substantially perpendicular to the working surface, a second track follower member (31A) connected to the second portion (32A) and in cooperative sliding engagement

with the second guide track (16), and a rigid support element (22) extending outside the first plane when in the first position and extending between and rigidly connected to (via lock nuts and lock screws 43/44; 43A/44A) to the first and second portions (32 / 32A).

In regards to claim 2, the modified device of Myhre discloses wherein the blade is adjustable so as to adjustably incline the cutting plane relative to the work surface (see Fittery, Figure 11).

In regards to claim 3, the modified device of Myhre discloses wherein the working surface (10) is non-adjustably mounted on the base.

In regards to claim 4, the modified device of Myhre discloses wherein the working surface comprises a recessed channel (14)

In regards to claim 5, Myhre discloses wherein the fence (28) comprises at least one releasable restraining member (screws, 37) for restraining the fence to the work surface in a plurality of angularly adjusted orientations relative to the cutting line.

In regards to claim 6, the modified device of Myhre discloses wherein the fence comprises a restraining member comprising a first member (shaft, 25; Figure 3) disposed in the working surface (10) and threadingly engaged to a second member (screw, 31) disposed on the fence (20,21).

In regards to claim 8, the modified device of Myhre discloses wherein the fence (20,21) extends over the cutting line (Figure 1).

In regards to claim 9, the modified device of Myhre discloses wherein the fence (22) comprises a recess (the break between the right end of 33 and the left end of 33A) for overlying the cutting line in the working surface.

In regards to claim 17, the modified device of Myhre discloses wherein the first track follower member (31) is longitudinally adjustable along the fence via cross arm 27.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myhre in view of Nichols and Lewis and in further view of Pollak et al. (U.S. Patent 5,097,601), herein referred to as Pollak. The modified device of Myhre discloses the claimed invention except that the wherein at least one of the first and second portions (32 /32A) is inclined so as to accommodate the blade when the cutting plane is inclined relative to the working surface. As it is old and well known in the art to provide for angular rotation of the blade to allow for angular cutting, it additionally old and well known to incline the ends of the fence to accommodate the angular change of the cutting blade. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the ends of the Myhre fences to have a chamfered edge as taught by Pollack so that the fence could be positioned closer to the cutting blade and thus provide a stronger support for the workpiece.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA M. LEE whose telephone number is (571)272-8339. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura M Lee/
Examiner, Art Unit 3724
11/06/2008

/Boyer D. Ashley/
Supervisory Patent Examiner, Art Unit 3724